

DPS-270

June 29, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-1584**

DEAN SASANKO

VS.

MARILYN BROOKS, ET AL.

(W.D. Pa. Civ. No. 04-cv-00307E)

Present: FUENTES, VAN ANTWERPEN and CHAGARES, CIRCUIT JUDGES

Submitted is appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) in the above-captioned case.

Respectfully,

Clerk

MMW/EGL/par

O R D E R

The foregoing request for a certificate of appealability is denied. The district court correctly concluded that appellant's third petition for a writ of habeas corpus, filed in 2004, is a "second or successive" petition under 28 U.S.C. § 2244(b) by reason of the prior petition for a writ of habeas corpus that appellant filed in 2001. Because this Court has not authorized appellant to file his 2004 petition, the district court acted properly in dismissing it. See Robinson v. Johnson, 313 F.3d 128, 139 (3d Cir. 2002). Appellant has failed to show that jurists of reason would find it debatable whether the district court's ruling was correct. 28 U.S.C. § 2253(c)(1); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, appellant's request for a certificate of appealability is hereby denied. Nor will this Court treat appellant's request for a certificate of appealability as an application under 28 U.S.C. § 2244 to file a second or successive petition under 28 U.S.C. § 2254 because appellant has not addressed the standards required by the statute.



A True Copy

Marcia M. Waldron

Marcia M. Waldron, Clerk

Dated: July 13, 2006

par/cc: Mr. S.S.

R.M.W., Esq.

By the Court,

/s/ Franklin S. Van Antwerpen

Circuit Judge